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Follow-up to the Second World Assembly on Ageing

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 63/151. The main focus of the report is the promotion and protection of human rights as they pertain to older persons in the context of the implementation of international legal and policy instruments as well as national action.

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I. Introduction

1. The present report focuses on the promotion and protection of human rights as they pertain to older persons, as well as an analysis of national capacity-building and examples of good practices at the national level, particularly with respect to national action in the area of rights of older persons. It examines the rights of older persons in the context of both international policy documents on ageing and international legal instruments. Furthermore, existing infringements on the rights of older persons are highlighted, namely those regarding age discrimination and abuse and violence. Possible next steps for action and conclusions and recommendations are presented at the end of the report.

2. The report is based on information from Member States submitted to the United Nations Secretariat in the form of national review and appraisal reports in the context of the first review and appraisal of the Madrid International Plan of Action on Ageing 2002,[1] information from the regional commissions of the United Nations on regional review and appraisal efforts, as well as findings of an expert group meeting on the topic "Rights of older persons", convened by the Department of Economic and Social Affairs of the Secretariat in Bonn, Germany, from 5 to 7 May 2009, where experts and representatives from international non-governmental organizations (NGOs) discussed the current state of the rights of older persons and suggested possible future options to enhance those rights.

II. Developmental significance of ageing

3. Owing to declines in fertility and rising longevity, the world is ageing at an ever increasing pace. In the more developed regions, the population aged 60 and over is expected to increase by more than 50 per cent over the next four decades, rising from 264 million in 2009 to 416 million in 2050, while in the developing world the 60 and over population is projected to triple from 473 million in 2009 to 1.6 billion in 2050. The older population itself is ageing at an accelerated rate with those aged 80 and over projected to increase fourfold, to reach 395 million in 2050.[2] Older women also continue to outnumber older men, as they account for 54 per cent of all persons aged 60 years and over and 63 per cent of those aged 80 years and over, worldwide.

4. Such massive demographic changes point to major challenges for development. The growing numbers of older persons need to have adequate income support as they age, opportunities to engage in decent employment should they wish to remain economically active, and access to appropriate health-care services, including long-term care. In developed countries, some degree of progress has been made in meeting these objectives. In developing countries, however, owing to changes in family structures, migratory patterns and increasing urbanization, growing numbers of older persons are being left without traditional family support, especially those in rural areas. The feminization of ageing, where the numbers of older women eclipse that of older men, also presents some major challenges for

[1] *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4), chap. I, resolution 1, annex II.

[2] Population Division of the Department of Economic and Social Affairs, *World Population Prospects: The 2008 Revision*, Highlights (2009), Working Paper No. ESA/P/WP.210.

policymaking. In many developing countries, a significantly higher proportion of older women than older men are single, outside the labour force and illiterate.

5. Given the steady and rapid rise in the numbers of older persons, there is a need to address ageing within the context of poverty eradication and development policy. This applies both in the short term, to ensure attainment of the Millennium Development Goals by 2015, as well as over the longer term as the older population continues to grow rapidly. Although precise figures on ageing and poverty are not available, estimates indicate that older persons are more likely to be living on less than US$ 1 per day than the population as a whole in all parts of the developing world.[3] Nonetheless, ageing continues on the periphery of internationally agreed goals, as exemplified by the absence of reference to ageing in the Millennium Declaration and the Millennium Development Goals.

6. At the same time, it is important to recognize that older persons are a heterogeneous group, encompassing both people who are major contributors to the development of society, as well as those who are in need of care and support. Regardless of their individual situations, it is critical that older persons not be marginalized, but rather brought into the mainstream of social and economic development. A fundamental way to guard against marginalization is to promote and protect the rights of older persons.

III. Rights of older persons in the context of international policy documents on ageing

7. The international community convened twice within 20 years to consider at the global level the issue of ageing: the First World Assembly on Ageing was held in Vienna in 1982 and the Second World Assembly in Madrid in 2002. The first Assembly and its plan of action recommended a variety of initiatives in employment and income security, health, housing, education and social welfare while focusing on the specific needs of older persons and the socio-economic implications of ageing in developed countries.

8. The Vienna International Plan of Action on Ageing[4] was the first international instrument on ageing, guiding thinking and the formulation of policies and programmes on ageing. It aimed to strengthen the capacities of Governments and civil society to deal effectively with the ageing of populations, to address the developmental potential and dependency needs of older persons and to promote regional and international cooperation.

9. In between the First and the Second World Assemblies on Ageing, the United Nations Principles for Older Persons were adopted in 1991 (General Assembly resolution 46/91, annex). Consisting of five clusters (independence, participation, care, self-fulfilment and dignity) that relate to the status of older persons and their contribution to society, the Principles were an important policy tool, which, among other things, influenced the conceptualization of the Madrid International Plan of

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[3] See, for example, HelpAge International, "Poverty, work and pensions" (2008); and Sandra Huenchuan, editor, *Envejecimiento, derechos humanos y políticas públicas* (United Nations publication, Sales No. S.08.IIG.94).

[4] See *Report of the World Assembly on Ageing, Vienna, 26 July-6 August 1982* (United Nations publication, Sales No. E.I.16), chap. VI, sect. A.

Action on Ageing. The Principles recognize the peoples' faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of women and men as reaffirmed in the Charter of the United Nations. The Principles also predicate that the elaboration of those rights in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and other instruments ensure the application of universal standards to older persons. It should be noted that the policy guidance provided under the five Principles correlates well with the rights encoded in the International Covenant on Economic, Social and Cultural Rights.

10. In 2002, the focus of the Madrid Assembly shifted the existing policy framework considerably: it promoted the view of ageing from the perspective of both developing and developed countries. An intergenerational policy approach that pays attention to all age groups with the objective of creating a society for all ages and a shift from developing policies for older persons towards the inclusion of older persons in the policymaking process were major outcomes of the Madrid Assembly. This shift lays the foundation for participatory approaches which consist of taking the views and opinions of older persons into account when developing and implementing policies that affect them. The international community in Madrid emphasized the importance of mainstreaming the concerns and needs of older persons into development policies and programmes at the international and national levels.

11. The Madrid Plan serves as the major mandate outlining topics which have been identified by the international community as most important concerning ageing and the lives of older persons. Under the three priority directions, such as older persons and development; health and well-being; and supportive environments for older persons, various issues that pertain to demographic ageing and older persons were agreed upon. Governments committed themselves to furthering the active participation of older persons in society and the labour force as well as access to knowledge, education and training for older persons. Rural development, migration and urbanization, the eradication of poverty, income security, and social protection as well as health promotion and universal and equal access to health-care services were identified as important policy areas in the socio-economic field. Other major health-related commitments centred on older persons and HIV/AIDS, training of care providers and health professionals, older persons and disabilities as well as housing, care and support for caregivers. Neglect, abuse and violence, older persons in emergency situations and images of ageing were also added to newly identified concerns important to older persons everywhere.[5]

12. These three policy documents taken together form an international framework on ageing. However, none of them contains legally binding obligations. Instead, they incorporate norms and precepts which Governments agree to be guided by, but without any requirement to account for adherence. That said, the significance of these international policy documents on ageing should not be underestimated. While their intergovernmental visibility can be lower than that of legally binding

[5] Already in 1994, the Programme of Action of the International Conference on Population and Development called for the elimination of all forms of violence and discrimination against older persons. It also drew attention to the greater numbers of older women, and the fact that they tend to have lower socio-economic status than older men.

instruments, they provide greater specificity than these texts and thus offer a useful guide for State action. However, given their non-binding nature, implementation of the international policy documents on ageing can be weak. States often fail to incorporate international standards into national legislation and policy action, as was noted during the review and appraisal exercises of both the Vienna International Plan of Action on Ageing and its successor, the Madrid Plan of Action (see E/CN.5/2001/PC/2 and Corr.1 and A/63/95).

IV. United Nations human rights and older persons

13. The Universal Declaration on Human Rights, 1948, together with the International Covenant on Civil and Political Rights, 1966 and the two Optional Protocols thereto, and the International Covenant on Economic, Social and Cultural Rights, 1966, form the so-called International Bill of Human Rights. None of these instruments explicitly refers to age as one of the prohibited grounds. As stated in paragraph 11 of General Comment Number 6 of the Committee on Economic, Social and Cultural Rights: "Rather than being seen as an intentional exclusion, this omission is probably best explained by the fact that, when these instruments were adopted, the problem of demographic ageing was not as evident or as pressing as it is now". Nonetheless, the Committee recognized, in paragraph 10, that "in view of the fact that the Covenant's provisions apply fully to all members of society, it is clear that older persons are entitled to enjoy the full range of rights recognized in the Covenant".

14. The Committee further acknowledged its role in monitoring State compliance with respect to the promotion and protection of the economic, social and cultural rights of older persons, given that no comprehensive international convention exists in relation to the rights of older persons and no binding supervisory arrangements attach to the various sets of United Nations principles in this area. The Committee has also acknowledged the importance of the recommendations contained in the Vienna International Plan of Action on Ageing and the United Nations Principles for Older Persons concerning independence, participation, care, self-fulfilment and dignity.

15. Several key provisions elaborated in the above-mentioned documents do, however, have a particular relevance to the lives of older persons. These include: the core tenet of non-discrimination and equality; equal rights of men and women; rights relating to work; the right to social security; protection of the family; the right to an adequate standard of living, including adequate housing; the right to physical and mental health; and the right to education and culture. In addition, some treaty monitoring bodies have deliberated on the relevance of human rights for older persons and amplified the responsibilities of States with respect to some key rights.

16. Subsequent international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women, 1979, made passing reference to older persons with respect to the right to social security in cases of old age. In recent years, however, there has been growing pressure on the Committee on the Elimination of All Forms of Discrimination against Women to pay more specific attention to the rights of older persons. Consequently, at its forty-third session, held in January-February 2009, the Committee constituted a working group on a general comment on the rights of older women, requesting the working group to prepare a

working paper on the proposed general recommendation for discussion by the Committee at its forty-fourth session in July 2009. The Committee also agreed to convene an open meeting with United Nations entities, NGOs and other stakeholders on the proposed general recommendation during the same forty-fourth session.

17. Despite this recent advance in the Committee on the Elimination of All Forms of Discrimination against Women, overall analysis of the international legal instruments points to the existence of a "normative gap" with respect to the rights of older persons. As almost all the key human rights instruments fail to identify age as a prohibited ground for discrimination, the discriminatory experiences of older people become obscured. The one notable exception is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, article 7 of which forbids discrimination on the basis of, inter alia, age. Moreover, the standards which offer older people protection are dispersed through various human rights texts. The numerous obligations on States vis-à-vis older people are implicit in the United Nations human rights instruments but remain invisible for both Governments and the general public, while the obligations on private sector actors and individuals are not well developed. While the interpretative work of the treaty-monitoring committees has begun the process of amplifying the rights of older persons, knowledge of this work remains limited.

18. If States should fail to abide by the commitments that they have signed on to through human rights instruments, this could be termed an "implementation gap". This is clearly distinct from a normative gap where the current provisions fail to provide specific guidance on how to give content and effect to existing norms and to address adequately ongoing practice which denies rights. Instead, an implementation gap suggests a failure to incorporate international standards into domestic legislation and procedures, or a lack of institutions or other actors competent to implement measures that would result in the fulfilment of the relevant rights.[6] A question to be posed is whether the implementation gap is a result of the normative gap, given that existing instruments or provisions have not been successful at providing either the incentive or safeguard to protect the rights of older persons.

19. Evidence of the lack of capacity of existing human rights instruments to effectively protect the rights of older persons can be garnered from an analysis of the reports that Member States submit to human rights monitoring bodies. From 2000 to 2008,[7] the Human Rights Committee, which scrutinizes Government commitments under the International Covenant on Civil and Political Rights, considered 124 State reports. Of these, only three made specific reference to actions taken to address age discrimination, and just one highlighted the vulnerability of older people in long-term care homes. For the same period, the Committee on Economic, Social and Cultural Rights, which assesses compliance with the International Covenant on Economic, Social and Cultural Rights, considered 122 State reports. In these, 24 references were made to older people and their rights. Likewise, during its sessions for the same period, the Committee on the Elimination of All Forms of Discrimination against Women, while assessing progress in

[6] For reference, refer to reports of the Secretary-General submitted to the General Assembly and the Commission for Social Development regarding the review and appraisal of the Madrid Plan.

[7] The present section draws on information which was current as of September 2008; therefore it does not consider State reports submitted at the late fall sessions of 2008.

achieving the Convention, considered 190 State reports, with the experiences of older women referenced 32 times.

20. It is open to question whether such figures provide telling evidence of a lack of action on the part of Governments to address the rights of older persons, but these figures do reveal that many States are "age-blind" in their human rights reporting. Moreover, it should be noted that even those States that referenced older persons were not always testifying to positive actions taken. Instead, some were merely expressing concern for the situations with which older people were faced — although raised awareness is a necessary precursor for action.

21. The above analysis points to the fact that despite the existence of various instruments and undertakings, older persons in all parts of the world continue to face barriers in their participation as equal members of society as well as violations of their human rights. When the rights of older persons are violated, it also impairs their ability to contribute to the overall well-being and diversity of their communities. Promoting the full enjoyment by older persons of their human rights and fundamental freedoms and their full participation will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty.

V. Existing infringements

22. The rights of older persons may be violated in a number of ways, including on the individual and institutional levels. Violation of rights can manifest itself in different ways: in the form of discrimination, or perhaps most seriously in the form of violence, abuse and neglect, typically at the hands of their caregivers.

Discrimination

23. Discrimination against older persons is often a reflection of the fact that the life of older persons is, in some respect, discounted, and not valued in the way that it should be. In addition, discrimination is typically income-related and impedes efforts to the social and economic integration of older persons in society.

24. Older persons are frequently negatively stereotyped or denied opportunities on the basis of their age. This systematic stereotyping and discrimination against people because they have reached a certain chronological point and are considered "old" has come to be known as "ageism". Ageism reinforces a negative image of older persons as dependent people with declines in intellect, cognitive and physical performance, and other areas required for autonomous, daily functioning. As a result, older persons are often perceived as a burden, a drain on resources, and persons in need of care. These perceptions contribute to their vulnerability, which puts their rights at risk.

25. Discrimination of older persons can be apparent in many different ways. For example, in the workplace, older persons may be denied promotional opportunities, have difficulty keeping their jobs, or not given an equal chance during the hiring process simply on the basis of their age. All individuals, including older persons, should have the opportunity to gain a living through engaging in work which is freely chosen or accepted (Committee on Economic, Social and Cultural Rights General Comment 20, para. 29). Older workers as well should enjoy safe working

conditions, and have the chance to work in circumstances that make the best use of their experience and know-how.

26. In the area of pensions, both older women and older men can be discriminated against, particularly in the absence of non-contributory old age benefits and other forms of financial assistance to guard against destitution. Older women may not be entitled to receive an old-age pension as a consequence of the unpaid years they spent as family caregiver, and older men may be denied access to the spouses' pension should they become widowers.

27. Older persons may also be discriminated against with respect to their living situation, including their ability to remain as integral members of their communities. To the extent possible, older persons should be enabled to continue to live in their homes for as long as possible, to avoid both the physical and psychological disruptions involved in moving to an unfamiliar location. Appropriate and adequate means of transportation are also needed so that older persons can remain mobile and remain integrated into the larger community.[8]

28. The area of health care is another domain in which older persons are frequently subject to discrimination, either being denied access to services or receiving substandard or insufficient care on account of their age. Older persons should be entitled to the enjoyment of a satisfactory standard of physical and mental health, with due attention to preventive, curative, rehabilitative and long-term care.

29. Older persons may also be discriminated against with respect to education and culture. Educational opportunities are not just important to younger individuals, and should be available to people throughout their lives through the provision of lifelong learning. The United Nations Educational, Scientific and Cultural Organization recommends informal, community-based and recreation-oriented programmes for older persons to help to develop their sense of self-reliance. Older persons themselves can be important transmitters of knowledge, culture and values to the next generation. This can also help to promote intergenerational solidarity and cohesion, as well as enhance the social integration of older persons into their society by enabling them to effectively participate in the political, social, economic and cultural aspects of community life.

30. Other factors which may contribute to the vulnerability of older persons are that they are more likely than younger adults to be illiterate, poor, and have trouble accessing information about their rights. In addition, the erosion of bonds between generations of families, and the increasing likelihood that younger persons will migrate to other areas leaving their older parents alone, also adds to their vulnerability.

31. Nonetheless, it is important to recognize that a discussion of the promotion and protection of older persons' rights does not presuppose that all older persons as a group are vulnerable and in need of protection. Whereas some older persons are frail and dependent, there are others who remain active and vibrant contributors to society. Many people aged 60 and above continue to work full time in the labour

[8] Article 2 of the Convention on the Rights of Persons with Disabilities defines, inter alia, "universal design" as "the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design" (General Assembly resolution 61/106, annex I). This includes the needs of older persons.

market, earning income and paying taxes. Still others work in unpaid jobs, frequently assuming the role of family caregivers, either to spouses, parents, children or grandchildren.

22. Particularly owing to advances in medical care, active ageing is increasingly becoming the norm, with the emphasis on adding life to one's years rather than simply years to one's life. Accordingly, there has been growing recognition of the contributions that older persons make to their families and communities, whether through paid employment or unpaid activities. Growing numbers of older persons continue to participate and contribute to society as workers, entrepreneurs, volunteers, political activists, grandparents and caregivers to elderly family members and friends. To guarantee that these contributions are valued, the full inclusion of older persons should be pursued to ensure their active participation in the development of society and in community networks, as well as to consolidate a positive image of older persons within social and civil contexts.

Abuse and violence

33. Elder abuse is a serious but preventable threat for many persons in later life. The World Health Organization defines elder abuse as "a single or repeated act of lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person".[9] Since first identified more than 30 years ago as a social problem, elder abuse, like other forms of family or interpersonal violence, has become recognized as a universal phenomenon that cuts across cultural and socio-economic lines. The mistreatment of older people is a complex issue with moral, sociocultural, political, and personal ramifications that often crosses health care, legal, human rights, and ethical domains within society's major institutions.

34. Abuse of older persons consists of the following categories: (a) physical abuse: the infliction of physical harm or injury, physical coercion, or physical restraint (assault) to an older person; (b) psychological abuse: the infliction of mental anguish (verbal, emotional abuse) to an older person; (c) financial or material abuse: the illegal or improper use of funds or resources from an older person (e.g., financial exploitation, theft); and (d) sexual abuse: sexual contact with the older person without their consent (e.g., sexual molestation, rape). Older women tend to be at most risk, as they live longer than men and culturally are often more vulnerable to abuse.

35. Neglect of older adults refers to certain failures to live up to social or legal responsibilities to provide care, support, or assistance to an older adult. Elder neglect is subdivided into active and passive forms: (a) active neglect, where the other person refuses or fails to uphold an expected or legal caregiving obligation, such as providing food, medication, or shelter. Active neglect includes conscious and intentional attempts to inflict physical or emotional distress on an older person; and (b) passive neglect, failure to fulfil a caregiving obligation out of lack of awareness or knowledge of the older person's needs and condition (which might

[9] See World Health Organization, *A Global Response to Elder Abuse and Neglect: Building Primary Health Care Capacity to Deal with the Problem Worldwide: Main Report* (Geneva: World Health Organization, 2008); and World Health Organization/International Network for the Prevention of Elder Abuse "Missing Voices: views of older persons on elder abuse" (Geneva: World Health Organization, 2002).

occur where ageing spouses are caring for each other or adult children do not understand the extent of an ageing parent's frail condition).[10]

VI. Efforts to promote and protect rights of older persons at the national level

36. Although the existing international legal instruments and policy frameworks provide important guidance for action, it is at the national level that programmes to realize the rights of older persons are designed and implemented. In order to effectively guarantee the basic rights of older persons and to prevent violence and abuse against them, legislative measures need to be enacted. Legislative measures can range from legal protections to promote and protect human rights, to guaranteeing equal access to health care, ensuring basic economic security, preventing discrimination and forms of abuse and neglect, and assuring the participation of older persons in important decisions that affect their lives.

37. To gain some insight into the extent to which the rights of older persons are currently being addressed through national legislation, an analysis was conducted of the submissions by Member States for the review and appraisal of the Madrid International Plan of Action on Ageing. Each of the national contributions was scrutinized for references to the human rights of older persons. Although there are limitations to this approach — most notably that Member States were not asked to address specifically the issue of rights in their submissions — some useful information about the promotion and protection of the human rights of older persons at the national level can still be gleaned.

Legal protection

38. Of the 62 national contributions to the review and appraisal process, 52 (84 per cent), raised the issue of the rights of older persons in some manner. Reference to the human rights of older persons in the national submissions was most commonly found in the context of the constitution of the country. In many States, human rights are universally encoded in the constitution but some make specific reference to older persons as a group. This was found to be the case in a broad cross-section of countries, among them, Armenia, Austria, Bangladesh, Cameroon, China, Finland, Ghana, Nepal, the former Yugoslav Republic of Macedonia and Uganda. In Uganda, for instance, the Constitution recognizes the rights of older persons and provides the basis for the enactment of laws to address their rights and needs. The Constitution of Finland goes a step further, and stipulates that the public authorities must provide each resident with adequate social, health and medical services.

39. In many countries, however, there is no specific legislation guaranteeing the rights of older persons. Instead, their rights are protected through general legislation. Following the Second World Assembly on Ageing in 2002, however, some countries mentioned that they were in the process of developing new laws that supported the rights of older persons, and a few countries have already enacted such laws. One example is the Law of the People's Republic of China on the Protection

[10] For definitions, see L. S. Daichman, S. Aguas and C. Spencer, "Elder abuse", in: Kris Heggenhougen and Stella Quah, editors, *International Encyclopedia of Public Health*, Vol. 2 (San Diego: Academic Press, 2008), pp. 310-315.

of the Rights and Interests of Elderly People, which clarifies the rights of senior citizens and stipulates legal punishments for acts infringing on their rights. Another is the Law on the Rights of Older Persons, in Mexico, which established the National Institute of Older Persons as a political institution in support of older persons. In Sri Lanka, the Protection of the Rights of Senior Citizens Act, 2000, among other things, created a statutory National Council of Elders and Secretariat as well as a Maintenance Board to look into and determine the claims for maintenance by parents who have been neglected by their children.

40. In some instances, specific legislation guarantees pension rights and entitlements, providing for individual security in old age. The question of pensions was raised in a number of the national submissions, including those from Albania, Armenia, Austria, Canada, Estonia, France, Lithuania, the Netherlands, Portugal, the Republic of Moldova, Serbia, Sweden, and the former Yugoslav Republic of Macedonia. As a reflection of the lack of social protection provisions for the majority of the world's population, however, the right to pensions was rarely mentioned in countries outside the European Union.

41. This developed world bias was evident again with respect to questions relating to health and care. The rights of people in long-term care facilities were frequently mentioned in submissions. In Germany, for example, the Charter of Rights for People in Need of Long-term Care and Assistance ensures the legal status of such people and their families and provides information and proposals for shaping the care and assistance process. Likewise, in the Netherlands, legislation states that everyone has the right to long-term care in the case of illness or disability. In a number of countries, long-term care residents who felt their rights had been violated were also provided legal recourse.

42. In several of the national submissions, the law had focused on supporting the inclusion of older persons in social life and preserving their autonomy. In the United States, a law on ageing was enacted to enable older individuals to maintain their dignity and to live independently in their own homes and communities. In Bangladesh, the Government attaches importance to independence, participation, care, self-fulfilment and dignity. In Ghana, a National Policy on Ageing was drafted to promote the social, economic and cultural inclusion of older persons into mainstream society, to enable them to participate fully and as far as practicable in national development and social life, while recognizing their fundamental rights.

Age discrimination

43. Another common occurrence was the reference to discrimination of older persons, which was made in 37 of the 62 national submissions (60 per cent). Among the most frequently mentioned areas of concern were employment, the accessibility of quality health care and long-term care, patients' rights, accessible and affordable transportation, pensions and social security, and the right to information and participation of older persons in decisions that affect their lives. In several cases, the guarantee of rights with regard to older persons simultaneously referred to persons with disabilities and women, which in part recognizes the fact that many older persons also have disabilities and the majority of older persons are women.

44. Some countries provided evidence of general programmes designed to tackle discrimination from which older persons clearly benefit. In Lithuania, for example, the National Anti-Discrimination Programme for 2006-2008 aims at ensuring the

implementation of the principle of non-discrimination. One of the goals of this programme is to investigate age discrimination in all spheres of life, develop tolerance of the society, and improve awareness-raising among the public and different social groups with respect to non-discrimination, equal treatment, equal rights and opportunities.

45. Virtually every country in the European Union which submitted a review raised the issue of discrimination in some respect. In many instances, this was related to employment. For example, in Austria, the three most recent European Union directives on equal treatment have been implemented, providing for the extension of the principle of equal treatment to also apply on the grounds of age. As a result, equal treatment is now guaranteed with respect to access to employment, vocational education, occupational advancement and working conditions. As a reflection of the impending labour shortages owing to declining birth rates in Europe, several European Union countries such as Estonia and Sweden have raised the age for retirement to encourage older persons to remain in the labour force for longer periods of time.

Abuse and neglect

46. Of the 62 national submissions made to the Madrid review process, 19 (31 per cent) raised the issue of abuse or neglect of older persons. National legislation exists in several instances with respect to elder abuse. For example, Canada has been recognized internationally as a leader in raising public awareness of abuse of older adults and in developing innovative approaches to dealing with the issue. In Malta, legislation on elder abuse is aimed at providing quality social work service to adults and their children suffering abuse in family and intimate relationships. For its part, Japan enacted the Elder Abuse Prevention and Caregiver Support Law in 2005, which stipulates that efforts to prevent abuse of the elderly and provide support for those who provide care to them should be undertaken mainly by prefectural or municipal authorities. The Protection of the Elderly Persons Act, 2005, was implemented in Mauritius to set up a Protection of Elderly Network to ensure that adequate protection is provided to elderly persons against ill-treatment, be it physical, verbal, emotional harassment or financial prejudice. In South Africa, the Older Persons Act, 2006, provides for the protection of older persons in the event of abuse and provides for the criminalization of offenders.

Institution-building

47. In a few instances, special authorities have been set up to determine if the rights of older persons had been violated. In Hungary, for example, an Equal Treatment Authority monitors discrimination. It can respond to the request of the person whose rights are violated or ex officio in cases specified by law, conduct an administrative investigation to determine whether discrimination occurred, and impose sanctions in cases of unlawful discrimination. Complaints of age discrimination have almost exclusively been work-related to date. Hungary has also established an Elder Rights' Commissioner, under the supervision of the Minister of Social and Family Affairs. Among other functions, elder rights' advocates are employed under the coordination of the Elder Rights' Commissioner.

48. Many States have also focused efforts on increasing the ability of older persons to demand their rights. In a number of cases, these rights are articulated by

councils of older persons. In the Czech Republic, for example, the Government set up a Council for Seniors and Population Ageing. This Council is an opportunity to gain new insights in, and to increase awareness of, needs and conditions of older persons and to support better informed and more sensitive policymaking and decision-making in various settings and areas. Similarly, in Malta, a National Council of Older Persons has been established, with responsibility for protecting the rights of older persons, ensuring their social and economic security and planning a national response to the challenges of population ageing. Other countries which mentioned having an older persons' council include Denmark, Greece, Hungary, Israel, Latvia, Lithuania, Malaysia, Mali, Mauritius, Mexico and Sri Lanka.

49. Reports also highlight ongoing efforts to raise awareness among older persons of their rights. In Thailand, for example, the National Commission on the Elderly supports the production of documentation to disseminate and campaign for the people's knowledge of the Act on Older Persons, 2003. In Spain, the emphasis is placed on initiatives to ensure full awareness of the rights of older persons, both among professionals and among older persons themselves. The Government of Turkey noted that it is necessary to increase the awareness of individuals by fostering solidarity between generations in social, economic, and cultural aspects, with first and foremost education, in order to eliminate all kinds of discrimination and exclusion against elderly people and other disadvantaged groups. In Mexico, a campaign directed at older persons raised awareness of the newly enacted Law on the Rights of Older Persons, while in the Philippines, print and broadcast media were used to promote the rights and welfare of the senior citizens.

50. Although not reflected in the review and appraisal submissions, it is worth mentioning that a number of countries from Latin America have established appeals boards and other mechanisms to protect the rights of older persons.

51. For example, Brazil has established mechanisms which guarantee that the rights of its older people are respected. In Costa Rica and Mexico, there are laws which determine punishments in the case of rights violations. In the Plurinational State of Bolivia, there is a consultative body on the rights of older people, and in the Bolivarian Republic of Venezuela, there is specialist staff in the office of the Public Ombudsman. Guatemala, Panama and Peru also have ombudsmen for older persons. In Peru, the Public Ombudsman collects complaints from vulnerable older people whose rights have been violated by public entities and provides reports to highlight the problem, giving the relevant public bodies an opportunity to deal with the issues raised. In addition, ombudsmen are to be installed in each local government authority.

52. In the Plurinational State of Bolivia and Peru, there are advice centres — mechanisms set up by civil society at the local level. In Argentina, a programme called "Proteger" (Protect) offers essential advice to older people who have been abused. And in Chile, there is a telephone advice line called "Fono Mayor" (Older People's Phone) to help older people who are victims of abuse.[11]

[11] L. Barreto, "A report on the status of older people's rights in Latin America", background briefing paper of the International Symposium on the Rights of Older People (January 2009).

VII. Possible next steps

53. To better assess the current status of the promotion and protection of the rights of older persons, the Division for Social Policy and Development organized an expert group meeting on the topic "Rights of older persons", from 5 to 7 May 2009, in Bonn, Germany. The experts had various backgrounds: some were from academia, others worked in government and others represented civil society organizations, speaking out on behalf of older persons. International NGOs dealing with ageing issues were also invited to participate in this meeting and were actively involved in the discussions. The purpose of the meeting was to provide the General Assembly with independent expert opinion on questions related to the rights of older persons. The overall objectives of the meeting were to explore how fundamental human rights of older persons could be assured and deepened and how the Madrid International Plan of Action on Ageing could be better implemented concerning the rights of older persons.

54. Specific objectives of the meeting were to: (a) identify and evaluate good national practices regarding protecting and promoting the rights of older persons, including measures to prevent discrimination, neglect, abuse and violence; (b) select innovative approaches to widening and deepening the rights of older persons nationally and internationally; (c) identify capacity tools that are required and could be recommended to policymakers when addressing the rights of older persons; (d) elaborate recommendations on how to promote the rights of older persons at the level of Member States and the United Nations; and (e) explore the feasibility and possible approaches to elaborating an international legal framework on the rights of older persons, including an international convention on the rights of older persons, or a special rapporteur on the rights of older persons.

55. Participants of the expert group meeting identified a variety of good national-level practices, of which a representative sample from developing countries is mentioned here. In South Africa, the introduction of innovative ways to enforce human rights for older persons has been achieved through a new legal system that puts the test of proof on the discriminator, rather than on the older person discriminated against. In Brazil, the National Law for the Protection of the Rights of Older Persons (Estatuto do Idoso, 2003) has improved respect for older persons as it is now mandatory to report any violation of their rights. In Bangladesh, family pensions and the issuance of identification cards for older persons are very important in realizing economic security in old age. In a number of countries in various regions, universal social pensions (non-contributory pensions available to all persons reaching a determined age), have helped older persons to maintain dignity in the family as they support themselves and help financially, for example with food and school fees.

56. A first set of recommendations centred on how to ensure rights more effectively in the future. Given that the lack of identification in developing countries is a major barrier to older persons trying to access their rightful economic, social, political and civil entitlements, it would be crucial to provide easily accessible and free identity documentation to older persons. Equally important would be the support to older persons' associations through which older persons can be aware and monitor or access their entitlements. This could include provision of paralegal support and legal aid to older persons to defend their rights and help to resolve disputes within community structures and to gain them access to formal judicial

systems. Supporting legal mechanisms in later life planning, such as regarding health care, wills, power of attorney, living wills, organ donations and property should also be emphasized. Overall and as outlined in the Madrid Plan, Member States should ensure participation of older persons in decision-making processes that affect them.

57. A second group of recommendations addressed neglect, abuse and violence against older persons as serious rights infringements. Initiating a nationwide review about neglect, abuse and violence against older persons in order to come up with more effective prevention strategies as well as stronger laws and policies to address the problems and their underlying factors should be the point of departure of future policymaking in this area. Policies and infrastructure that support mistreatment, or contribute to it should be analysed, addressed and eliminated.

58. Recommendations regarding gender and ageing were another important cluster. Since older women often face double discrimination, incorporating a gender perspective in all policy actions on ageing and eliminating discrimination on the basis of age and gender should be policy objectives in all Member States. In addition, initiating a set of measures geared at preventing discrimination against older women and men in all fields and areas, including changing negative stereotypes in the media and other fields and encouraging the media to create positive images of older persons would be critical.

59. Fourthly, recommendations increasing the sensitivity of policymakers were made: older persons' rights need more visibility among leading policymakers, and education about the rights of older persons and the ageing process are essential among decision makers. Making resources available to national statistics offices to collect, analyse, and disseminate survey and census data disaggregated by age and sex should form the basis of more informed and evidence-based decision-making.

60. To enhance national capacity regarding the rights of older persons, recommendations included the establishment of a national ombudsman and a national human rights commission focusing on issues that are crucially relevant to ensure the full enjoyment of all rights for older persons.

61. The possibility of an international convention on the rights of older persons was also discussed. Such a convention would be able to address institutional ageism which is ingrained in almost every society and prevents older persons from reaching their full potential and participating equally in their communities. Some advantages of such a convention were identified by the experts. A convention would clearly define the obligations of Member States with regard to the rights of older persons, and it would strengthen and complement existing international policy documents on ageing and provide redress for the violation of human rights of older persons.

62. A convention would clarify and consolidate existing international norms with respect to the rights of older persons, and it would encourage a more equitable allocation of needed resources for older persons. A convention would clarify the specific obligations of States in order to ensure the full enjoyment of recognized human rights of older persons. It would also empower older persons and provide the framework for national legislation. Moreover, it would provide older persons greater visibility and recognition nationally and internationally as well as the basis for advocacy, public awareness and education on the rights of older persons.

63. The monitoring of the implementation of a convention would encourage ongoing dialogue among Member States, civil society, NGOs, the private sector and older persons. A convention would encourage Member States to collect additional data on older persons to inform evidence-based policy development, and it would address discrimination based on age and gender as well as the disparate impact of ageing on women and draw attention to the impact of multiple discriminations that older persons face. Thus, a convention would help to overcome existing normative gaps to address the rights of older persons.

64. Experts also opined on the role of a special rapporteur on the rights of older persons. A rapporteur could receive reports from Member States and offer assistance and advice to Member States on the implementation of the Madrid International Plan of Action on Ageing. He or she could promote the rights of older people by naming problems and issues and identifying strategies that could be implemented to resolve them. Furthermore, a special rapporteur could examine the nature and extent of older people's situations with regard to human rights such as equity, non-discrimination, and development, reporting on these issues as they arise to address issues of vulnerability and opportunity. Moreover, he or she could identify topics and trends with momentum in the United Nations and work to promote those that could gain traction within the United Nations processes. In addition, the rapporteur could identify bottlenecks and capacity constraints around the implementation of the Madrid Plan of Action and promote cooperation regionally and internationally. He or she could draw attention to good practices regarding the implementation of the Madrid Plan of Action and support government monitoring of implementation through such mechanisms as an ombudsman. The experts concluded that these options are not mutually exclusive: for example, the appointment of a rapporteur may not preclude the elaboration of a convention on the rights of older persons.

VIII. Conclusion and recommendations

65. Owing to the demographic developments during the latter half of the twentieth century, questions related to promoting, protecting and ensuring the rights of older persons have come more to the centre of national and international attention. It has become evident that the rights of older persons were not sufficiently addressed in the so-called International Bill of Human Rights. The two international plans of action on ageing as well as the United Nations Principles for Older Persons attempted to fill this gap, but owing to their non-binding nature, the results have been mixed. Member States have initiated various policies, legislation and other measures to address this shortcoming at the national level. Monitoring of existing policies and laws will show whether these instruments are effective and adequate.

66. Internationally it may be necessary to fill the normative gap left by existing human rights instruments and international policy documents on ageing. Despite the existence of both policy and legal documents, the above analysis indicates that the human rights of older persons have not been adequately promoted or protected. Part of this may stem from the lack of an older persons' perspective on human rights, and point to the need for such a perspective, which is consistent with the recommendations contained in the Madrid International Plan of Action on Ageing.

67. Based on the recommendations that emanated from the expert group meeting on "Rights of older persons", there are some policy areas that could be enhanced to advance the rights of older persons. Member States are encouraged to study the recommendations by experts as outlined above. In addition, the following specific recommendations are offered for consideration:

(a) **Member States may wish to ensure that older persons have better access to information about their rights so that they are better positioned to claim entitlement to their rights and allow older persons to participate more fully and justly in their societies;**

(b) **Member States may wish to develop their capacity for monitoring and enforcing the rights of older persons, in consultation with organizations of older persons, through, for example, the establishment or bolstering of national institutions for the promotion and protection of human rights;**

(c) **Member States may seek to strengthen the gender perspective in all policy actions on ageing and eliminate discrimination on the basis of age and gender. In this regard, Member States may wish to engage with all stakeholders, including women's groups and organizations of older persons, in changing negative stereotypes about older persons, and older women in particular, and to promote positive images of older persons;**

(d) **Member States may wish to address the important issues of neglect, abuse and violence against older persons by initiating a nationwide review about the situation with regard to these three issues. Additionally, Member States may wish to design more effective prevention strategies, as well as stronger laws and policies to address these problems and their underlying factors;**

(e) **Member States may also consider how best to improve international norms and standards pertaining to older persons and, in this regard, they may wish to consider the recommendations put forward by the experts at the meeting in Bonn, including those which explore the possibility of instituting new policies or instruments to better improve the situation of older persons.**